

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.15009 of 2021 (O&M)
Date of Decision: 21.03.2022**

Sonu Kumar

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Rahul Dev Singh, Advocate for the petitioner.

Mr. Kanisth Ganeriwala, AAG, Punjab for the respondents.

MAHABIR SINGH SINDHU, J.

Present writ petition has been filed under Article 226 of the Constitution for issuance of a writ in the nature of certiorari for quashing the impugned order dated 30.07.2021 (P-3), whereby earlier transfer order dated 07.07.2021 (P-1) of the petitioner from Punjab Roadways, Hoshiarpur to Pathankot were cancelled. Further prayer is for directing respondent No.2-Director, Punjab State Transport Department, Chandigarh to restore the aforesaid transfer order (P-1).

(2) Brief facts of the case are that petitioner, who is resident of District Pathankot, joined his services with Punjab Roadways, Pathankot Depot on 05.07.2005 as Clerk. On 06.10.2009, he was transferred to Batala, District Gurdaspur and worked there uptill 23.12.2011. On 24.12.2011, he was again transferred at Pathankot and remained there uptill 08.03.2021. Later on, he was

promoted as Senior Assistant w.e.f. 09.03.2021 and ordered to be posted at Hoshiarpur Depot. After sometime, vide order dated 07.07.2021 (P-1), he was again transferred back to Pathankot; but later on, while passing the impugned order dated 30.07.2021 (P-3), the above transfer order of petitioner has been cancelled vice one Sachin Kumar and he has been asked to join at Hoshiarpur. Hence, the present writ petition.

(3) It is contended on behalf of the petitioner that just after 23 days of his posting at Pathankot, the order dated 07.07.2021 has been cancelled while passing the impugned order on 30.07.2021 just to accommodate above said Sachin Kumar. Also contended that impugned order were passed on the basis of request of said Sachin Kumar; but representation dated 02.08.2021, submitted by the petitioner, has not been taken into consideration by the authorities. Further contended that above Sachin Kumar remained posted at Pathankot almost during his entire career, thus, the impugned order is in violation of the transfer policy dated 23.04.2018/29.06.2021 (R-2), issued by the Govt. of Punjab.

Per contra, learned State Counsel submitted that Sachin Kumar made a representation on account of his wife's ailment as well as his own ill-health. Also submitted that after passing of the impugned order, the matter was re-considered by the competent authority vide order dated 16.08.2021 (R-1); but cancellation of transfer order of petitioner from Hoshiarpur to Pathankot were maintained and in pursuance thereof, he has already joined at Hoshiarpur on 19.08.2021. Lastly submitted that said Sachin Kumar is going to retire after attaining the age of superannuation on 30.09.2022 and he has not even been impleaded as party.

(4) Heard learned Counsel for the parties and perused the paper-book.

(5) Concededly, out of total tenure of more than 16 years, petitioner remained posted at his home district i.e. Pathankot for approximately 14 years. This is also an admitted fact that said Sachin Kumar is going to retire after attaining the age of superannuation on 30.09.2022 and above all, he has not even been impleaded as a party respondent to the present writ petition. Even otherwise, perusal of the speaking order dated 16.08.2021 (R-1) clearly reveals that competent authority upon reconsideration of the matter did not agree with the petitioner, but while accepting the request of said Sachin Kumar observed as under:-

Sh. Sachin Kumar, Senior Assistant, Punjab Roadways, Hoshiarpur submitted a representation to the Director State Transport Punjab Chandigarh with a request that he is going to retire on 30.09.2022 on attaining the age of superannuation. He has severe pain in his spine and his wife is suffering from arthritis. He and his wife are unable to travel comfortably and their movement is also not comfortable. They have no one to look after. He is unable to look after each other by performing his duty at Hoshiarpur.”

It has also come on record that in pursuance of the order dated 16.08.2021 (R-1), petitioner joined his duties at Hoshiarpur on 19.08.2021 and working as such.

(6) Although, learned Counsel for the petitioner vehemently assailed the impugned order dated 30.07.2021 alleging to be violative of the transfer policy, but this Court while deciding CWP No.13925 of 2021 on 28.07.2021 held that this policy is merely a set of guidelines for the authorities concerned without there being any legal backing; thus, the same is not legally enforceable under Article 226 of the Constitution.

Still further, this Court while deciding above writ petition came to the conclusion that transfer policies are for smooth functioning of the administration and it is better to leave this arena to the competent authority unless the action complained has caused manifest injustice to the aggrieved person or non-interference by the Court will result into failure of justice.

(7) In the present case, petitioner has miserably failed to substantiate that he has suffered any element of manifest injustice or non-acceptance of his prayer will cause monetary loss or same shall be detrimental to his career in any manner or that the cancellation of his transfer order is in violation of any statutory rules.

Hence, the action of respondent(s) does not warrant any interference by this Court while exercising jurisdiction under Article 226 of the Constitution.

(8) In view of the above, there is no option except to dismiss the writ petition.

Ordered accordingly.

(9) Pending application(s), if any, shall also stand disposed off.

March 21st, 2022
Preeti/Gagan

(MAHABIR SINGH SINDHU)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>